

April 13, 1995

DOCKET NO. G-001/M-94-633

ORDER APPROVING REQUEST FOR AUTHORITY TO DEFER COSTS AND REQUIRING  
FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
Joel Jacobs  
Marshall Johnson  
Dee Knaak

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Request by Interstate Power  
Company for Deferral of Expenses Associated  
with Former Manufactured Gas Plants

ISSUE DATE: April 13, 1995

DOCKET NO. G-001/M-94-633

ORDER APPROVING REQUEST FOR  
AUTHORITY TO DEFER COSTS AND  
REQUIRING FILINGS

**PROCEDURAL HISTORY**

On July 11, 1994, Interstate Power Company (Interstate or the Company) filed a request for authority to defer costs of investigation and cleanup of five former manufactured gas plant (MGP) sites, plus any other sites later identified. The sites named in the petition are Rochester, Albert Lea, Austin, New Ulm, and Owatonna.

After comments were filed by the Department of Public Service (the Department) and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), the Company modified its request. Interstate withdrew its proposal to defer cash expenditures made prior to July 11, 1994, and its proposal to recover carrying charges on the deferred amounts.

On November 23, 1994, the Commission met to consider Interstate's proposal. The Commission determined there was a need for further comments on the following issue: should the fact that Interstate has already expensed a portion of its MGP costs be considered in deciding what amounts should be deferred?

On December 14, 1994, Interstate, the RUD-OAG, and the Department filed reply comments. Interstate and the RUD-OAG filed a further round of reply comments on December 21, 1994.

On March 9, 1995, the matter came before the Commission for consideration.

**FINDINGS AND CONCLUSIONS**

## **I. Factual Background**

Pursuant to reporting requirements of the Securities Exchange Commission (SEC), Interstate accrued and expensed approximately \$4.9 million in accrued liabilities since 1991 for the cleanup of the Rochester site. At the time of its petition, Interstate had incurred actual cash outlays of approximately \$550,000, primarily for investigation, for the Rochester property.

Interstate expensed approximately \$480,000 for cleanup liability for the Albert Lea site. At the date of the petition, Interstate had incurred actual cash outlays of approximately \$320,000.

Interstate estimated that it would take approximately \$5 million to complete the cleanup of the Rochester site. At the time of its petition the Company had not developed an estimate for the completion of the Albert Lea cleanup.

The Company has not incurred cleanup liability for the Austin, New Ulm, or Owatonna sites, nor has it made any cash payments for investigation or cleanup of these areas.

## **II. Interstate's Petition**

Interstate requested authority to defer all costs arising directly or indirectly from the cleanup of its former MGP sites, including investigation, cleanup, and legal fees. The request was submitted pursuant to Minn. Rules, Part 7825.0300, subp. 4, which allows utilities to petition for Commission approval of an exception to the statutorily-mandated Uniform System of Accounts (USOA). The Commission may grant the exception for good cause shown. Approval of an exception would be necessary for deferred accounting, because the USOA provides that items of profit and loss are to be presented and taken into account in calculating the utility's annual net income in the year in which the items are experienced.

Interstate argued that it should be granted authority to defer cleanup costs because these costs are non-routine, substantial in size, and not representative of normal operating and maintenance expenditures. Although it had not yet incurred liability for the Austin, New Ulm, or Owatonna sites, its experience with other MGP sites and its conversations with the Minnesota Pollution Control Agency convinced the Company that significant cleanup costs would be forthcoming.

Interstate noted that MGP cleanup costs arise out of environmental requirements. Because the costs are not associated with providing gas service, the Company argued, it should be allowed to allocate the costs between its gas and electric ratepayers.

Interstate stated that it accrued MGP expenses according to SEC requirements. The history of its SEC financial reporting should not impact its current proposal to defer cash expenditures for ratemaking purposes.

### **III. Comments of the Parties**

#### **A. The Department**

The Department supported the Company's request for authority to defer its Rochester and Albert Lea MGP cleanup costs for consideration in its next rate case. The Department stated that these costs are unusual and substantial, and that estimates of final costs are available or near completion.

The Department distinguished the Rochester and Albert Lea sites from the other sites mentioned in the petition, or from other sites yet to be determined. Deferral should not be authorized if no costs or liabilities have been incurred. A "blanket" authorization of deferral would be contrary to the principles of regulatory oversight.

The Department recommended accepting the Company's filing requesting deferral on the cash basis, even though the Company had expensed accrued MGP cleanup costs in its past financial statements. The Department stated that "financial statement accounting neither does nor should drive regulatory accounting decisions."

Finally, the Department recommended requiring annual Company filings on the progress of MGP cleanup and cost recovery.

#### **B. The RUD-OAG**

The RUD-OAG advocated rejection of the Company's filing because it lacked estimates of total costs, discussion of potentially responsible parties, or information on offsetting gains from sales of MGP sites. The RUD-OAG also argued that present ratepayers should not pay for past costs, and that MGP costs should not be borne by electric ratepayers.

The RUD-OAG argued that Minnesota statutes and rules require utilities to structure their accounting on the accrual basis. It would be retroactive ratemaking to take expenses already recorded on the Company's financial books on the accrual basis, and defer the costs on the cash basis.

#### **IV. Commission Decision**

The Commission finds that Interstate should be granted authority to defer MGP remedial expenses. The Company has shown that the expenses for the Rochester and Albert Lea sites are substantial, extraordinary, and unforeseen. The costs are related to gas utility operations. Prompt attention to the MGP site remediation will likely benefit gas ratepayers by minimizing environmental litigation or fines. The Company is attempting to mitigate its liability by negotiating shared responsibilities and pursuing insurance recovery.

For these reasons it is appropriate in this set of facts to grant an exception to the USOA under Minn. Rules, Part 7825.0300, subp. 4. Granting the exception will allow the Company in this case to defer costs associated with Rochester and Albert Lea MGP cleanup on the cash basis for consideration in its next general rate case.

The Commission will not grant authority for deferred accounting for the New Ulm, Austin, or Owatonna sites, or for yet undetermined sites. The Company cannot provide information regarding liability, potential costs, or possible insurance recovery for these sites. The Commission is unable to determine if the unusual measure of deferring costs would be appropriate for these properties. Rejection of the Company's request to defer costs for these sites does not, however, preclude the Company from seeking deferral in the future.

For the Rochester and Albert Lea sites, the Commission will accept the Company's filings, which request deferral of cash expenditures from July 1, 1994, the date the Company first asked for deferral authority. Interstate's proposal means that the Company will not be able to recover the approximately \$880,000 in cash expended prior to July 1, 1994. Post-petition cash expenditures may be deferred for consideration in the Company's next rate case.

The Commission disagrees with the RUD-OAG's assertion that allowing deferral of MGP cash payments will result in retroactive ratemaking because the Company has previously expensed MGP costs in its financial statements. Prior financial reporting of estimated MGP liabilities for SEC shareholder informational purposes does not constitute rate treatment of the costs. The Commission is not engaging in retroactive ratemaking when it allows deferral of the post-petition cash expenditures for future ratemaking consideration.

Requiring Interstate to defer these MGP costs on the accrual basis would mean that Interstate would not be able to defer for future rate case consideration approximately \$4.5 million it previously expensed. The Company explained that it did not previously seek deferral because it was following SEC requirements in its financial reporting and because it believed cost sharing and other issues were not ripe for the Commission's consideration in a deferral request. The Commission is unwilling in this case to preclude Interstate from possible recovery of these incurred expenses because the Company previously expensed the costs. The fact that deferral is on the cash basis in this case will not prevent acceptance of the Company's deferral proposal so that MGP costs may be considered in future ratemaking determinations.

The Commission will allow deferral, a special accounting treatment, so that the Company's extraordinary costs can be considered in the context of a general rate case. In the rate case venue all aspects of the costs can be developed by the parties: prudence and reasonableness of the expenses; proper accounting for regulatory purposes, including cash versus accrual methods; and such issues as possible gains from sales offsetting costs of cleanup. The Commission emphasizes that it will scrutinize these deferred costs in the rate case setting; allowing deferral of the costs at this time in no way guarantees eventual rate recovery.

The Commission will make one determination regarding ratemaking treatment at this time: the Commission will not allow allocation of MGP costs between the Company's gas and electric ratepayers. MGP costs are associated with the provision of gas service. There is no nexus between costs of remediation of MGP sites and provision of electric service. For this reason, the Commission will here state that it will not approve cost allocation between the gas and electric ratepayers.

Finally, the Commission will require the Company to submit the annual filing recommended by the Department. These filings are a reasonable means of monitoring Interstate's MGP cleanup activities and efforts for third-party recovery.

### **ORDER**

1. The Commission grants Interstate authority for deferred accounting for ratemaking purposes for actual MGP cleanup costs paid for the Rochester and Albert Lea sites and the related insurance and third party recovery amounts, beginning July 11, 1994.
2. At the time of Interstate's next rate filing or by May 1, 1996, whichever occurs first, and annually by May 1 thereafter, Interstate shall file an analysis of the Miscellaneous Deferred Debits Account, which includes the amount of its cash outlays for the prior calendar year by month and its cumulative cash outlays to date by year for MGP costs. The annual reporting of these costs shall explain and show the types of costs by site and what amounts were recovered from insurance companies and other parties. Interstate shall prepare a schedule detailing planned or anticipated further activities for insurance and third party recovery of costs extending in time to when Interstate expects all remediation to be completed, suits resolved, and all cost recovery efforts completed.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)